



<h1>CONTRACT</h1>  <h1>PROCUREMENT</h1>	Chapter	INDEXES
	Subject	Table of Contents

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<div style="text-align: center;"> <h1>CONTRACT</h1>  <h1>PROCUREMENT</h1> </div>	Chapter GENERAL INFORMATION
	Subject Design of This Guidance Manual

ORGANIZATION & NUMBERING:

Chapter Title—The subject matter in the manual is divided into chapters. The chapter title appears in the upper right-hand corner of the first page of a subject and in the upper left-hand corner of any subsequent page.

Subject Title—The title of a subject appears in the upper right-hand corner of the first page of a subject and in the upper left-hand corner of any subsequent page.

“CP” Prefix—Preceding each subject number, this prefix stands for the manual title *Contract Procurement*.

Date—The latest issuance date of a subject appears at the bottom of each page of the subject. This date agrees with the latest issuance date shown for the subject in the Table of Contents (**CP-01**).

Page Numbering—Each subject has its own page numbering, which appears at the bottom of each page.

LOCATING INFORMATION:

Two indexes appear at the front of the manual, and one index appears at the back:

- Ø **Table of Contents (CP-01)**—This index at the front lists the titles of the manual’s chapters and their subjects, as well as other information, in numerical order. It includes the latest issuance dates of all the subjects. As the manual matures, these dates change.
- Ø **Alphabetical Index (CP-02)**—This index at the front alphabetically lists key information in the manual. Generally, it directs the user to subject titles and to margin, paragraph, and subparagraph headings within subjects.
- Ø **Table of Exhibits (CP-9900)**—This index at the back lists the manual’s exhibits, including forms, worksheets, diagrams, etc., by number and title.



**CROSS-
REFERENCES
IN MANUAL:**

Subject Numbers within Narrative—A subject number within the narrative on a page directs the user to more information about the subject.

QUESTIONS:


Whom to Contact—For answers to questions about the contents of the manual, please contact:

Division of Contract Procurement
Transportation Cabinet Office Building
W3-05-02
Frankfort, KY 40622
(502) 564-3500

For copies of the manual, please contact:

Policy Support Branch
Transportation Cabinet Office Building
W4-26-02
200 Mero Street
Frankfort, KY 40622
(502) 564-3670

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<h1>CONTRACT</h1>	Chapter
	<h2>PREQUALIFICATION OF CONTRACTORS</h2>
 <h1>PROCUREMENT</h1>	Subject
	<h3>Statutory & Regulatory Requirements</h3>


STATUTE: Pursuant to KRS Chapter 176, Sections 130–220, every person or organization who seeks to procure, bid upon, or offer to bid upon any contract with the Transportation Cabinet for the construction or maintenance of a public road or section thereof shall obtain the TC 14-2 form, *Certificate of Eligibility (Exhibit 02)*.

ADMINISTRATIVE REGULATIONS: The Commissioner of the Department of Highways has adopted administrative regulations and approved a procedure to conform with statutory requirements for the prequalification of bidders. Publications of the regulations are available from the Division of Contract Procurement. The Prequalification Section of the division shall be responsible for the general administration of these statutory and regulatory requirements.

CONSTRUCTION PREQUALIFICATION COMMITTEE: The Commissioner of the Department of Highways shall appoint a Construction Prequalification Committee to review the TC 14-1 form, *Application for Certificate of Eligibility (Exhibit 01)*. The committee shall determine the maximum amount of incomplete work a contractor shall be permitted to have under contract at any one time. Contractors accepting subcontract work on any project will not have incomplete work charged against their certificates of eligibility.

FINANCIAL STATEMENT: An independent public accountant or certified public accountant must audit and attest the financial statement of prequalification applicants desiring eligibility in excess of \$1 million.

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<h1 style="text-align: center;">CONTRACT</h1>  <h1 style="text-align: center;">PROCUREMENT</h1>	Chapter PREQUALIFICATION OF CONTRACTORS
	Subject Application for Certificate of Eligibility

INFORMATION FOR APPLICATION:

An organization or individual must submit on application forms furnished by the department information that relates to the following:

- Ø Applicant's organization and its experience
- Ø Types of work for which eligibility is desired
- Ø Plans and equipment available
- Ø Projects completed within recent years
- Ø Balance sheet and financial statement prepared as of the close of the last fiscal year

CERTIFICATE OF ELIGIBILITY:

An independent public accountant or certified public accountant must audit and attest the financial data submitted by an applicant for a *Certificate of Eligibility*, the TC-14-2 form (**Exhibit 02**), in excess of \$1 million.

The person preparing the statement and a principal officer of the organization must sign the financial data submitted by an applicant for a certificate of eligibility of \$1 million or less.

CLASSIFIED RECORDS:


The Prequalification Section, Division of Contract Procurement, shall retain the financial report or audit report of the contractor in the personal files of the applicant for the exclusive use of the Construction Prequalification Committee. All such records shall be considered confidential information and secured under lock and key while in the possession of the Prequalification Section.

DETERMINATION BY PREQUALIFICATION SECTION:

The Prequalification Section shall examine the *Application for a Certificate of Eligibility*, form TC 14-1 (**Exhibit 01**), and obtain additional information needed to supplement the application. The section may verify the applicant's experience record and obtain performance reports from persons and organizations familiar with the applicant's work.

The Prequalification Section shall determine the maximum financial capacity of the applicant, as provided by regulations.

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<div data-bbox="227 216 501 281">CONTRACT</div> <div data-bbox="438 291 662 434">  </div> <div data-bbox="402 445 786 508">PROCUREMENT</div>	<div data-bbox="815 210 906 237">Chapter</div> <div data-bbox="927 268 1271 333">PREQUALIFICATION OF CONTRACTORS</div> <div data-bbox="815 380 902 407">Subject</div> <div data-bbox="834 428 1365 462">Construction Prequalification Committee</div>
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FREQUENCY OF MEETINGS:

The Construction Prequalification Committee shall meet at least once a month to review *Applications for Certificates of Eligibility*, form TC 14-1 (**Exhibit 01**), and to issue *Certificates of Eligibility*, form TC 14-2 (**Exhibit 02**). The committee shall meet at other times as necessary to review new or renewal applications and to hear appeals for reconsideration of Certificates of Eligibility previously issued. When requested by an applicant desiring to bid on a federal-aid project, the committee shall act upon the application within 15 days after its receipt.

DETERMINATION OF CAPACITY RATING:

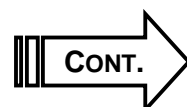
Upon reviewing the application, and the maximum capacity rating, performance reports, and other pertinent information, the Construction Prequalification Committee shall determine the maximum amount of incomplete work permitted the applicant at any one time. The Director of the Division of Contract Procurement shall issue a Certificate of Eligibility in accordance with the committee's determination.

RENEWAL OF CERTIFICATES OF ELIGIBILITY:

Unless suspended or revoked, each Certificate of Eligibility shall terminate no later than 120 days after the end of the applicant's fiscal year. Of this time period, 90 days are allotted to permit the applicant to file a new application; the remaining 30 days are for the review and the issuance of a new Certificate of Eligibility.

REQUEST FOR

RECONSIDERATION: The Construction Prequalification Committee shall review a request for reconsideration and notify the applicant by first-class mail of its determination within 30 days after the receipt of the request except as otherwise provided.



**REVOCATION OF
CERTIFICATE OF
ELIGIBILITY:**


In accordance with Official Order 101722 (**Exhibit 05**), upon receipt of information or evidence that the holder of a Certificate of Eligibility has failed to perform satisfactorily or to adhere to the laws, rules, regulations, and specifications applicable, the Construction Prequalification Committee may suspend or revoke the Certificate of Eligibility by notifying the certificate holder of the action by certified and first-class mail.

The notice shall set forth the grounds on which the Certificate of Eligibility is suspended and the date of revocation. The revocation shall become final unless the certificate holder submits a written request for a hearing within 10 days after receipt of the request.

The Construction Prequalification Committee shall set a date for an informal hearing at which the certificate holder may submit information and evidence pertinent to the revocation.

Within 10 days after the informal hearing, the Construction Prequalification Committee shall advise the certificate holder of its findings. Pursuant to statutory provisions, the certificate holder may seek an appeal of the committee's findings.


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C ONTRACT  P ROCUREMENT	Chapter PREQUALIFICATION OF CONTRACTORS
	Subject Affirmation of Contractors Eligible to Bid

POLICY:

The Prequalification Section of the Division of Contract Procurement shall provide employees selling bid proposals with current listings of qualified bidders and the types of work upon which they are qualified to bid.

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<div style="text-align: center;"> <h1>CONTRACT</h1>  <h1>PROCUREMENT</h1> </div>	Chapter PREQUALIFICATION OF CONTRACTORS
	Subject Listing of Individuals & Organizations Possessing Certificates of Eligibility

POLICY:

The Prequalification Section of the Division of Contract Procurement shall at least annually prepare a list of individuals and organizations possessing a *Certificate of Eligibility*, form TC 14-2 (**Exhibit 02**). The listing shall disclose the name and address of each certificate holder and its principal officers.

Statutes permit such lists to be prepared. However, publication of the amounts of eligibility is restricted and considered classified information.

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<p>CONTRACT</p>  <p>PROCUREMENT</p>	<p><i>Chapter</i></p> <p>ADVERTISING, PROPOSALS, & ESTIMATES</p>
	<p><i>Subject</i></p> <p>Policy</p>

ADVERTISING: The Division of Contract Procurement shall advertise for bids to be received on construction projects:

- Ø Not less than 7 days or more than 21 days prior to the opening of bids
- Ø At least one time in one of the leading statewide newspapers
- Ø In the newspaper with the largest circulation in the county in which the project is located
- Ø On a county basis in one issue of the publication

SELLING OF BID PROPOSALS:

The Division of Contract Procurement shall sell bid proposals to contractors who are qualified to perform the major type of work being advertised.


CHANGES ON PLANS

OR PROPOSALS: The Division of Contract Procurement shall notify all plan holders and purchasers of proposals of any changes that are made on plans or proposals. Confirmation of receipt of bid proposal changes must be on file in the Division of Contract Procurement.

**DESIGN
ENGINEERING
SERVICES:**

The Division of Contract Procurement shall advertise announcements to engineer consultants for design-engineering services.

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<h1>CONTRACT</h1>  <h1>PROCUREMENT</h1>	<p><i>Chapter</i></p> <p>ADVERTISING, PROPOSALS, & ESTIMATES</p> <hr/> <p><i>Subject</i></p> <p>Procedure for Advertising Projects</p>
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NOTICE TO**CONTRACTORS:**

Upon receipt of an approved official advertisement, the Division of Contract Procurement produces the *Notice to Contractors* (**Exhibit 04**). The division makes copies of the notice for Cabinet use and issues them to interested persons. The division also sends one copy of the notice to the designated statewide paper for one publication three weeks before the letting date.

**ADVERTISING
IN INDIVIDUAL
COUNTIES:**

The Division of Contract Procurement shall advertise projects on a county basis one time in the newspaper with the largest circulation in the county where the project is located. The division identifies the projects to be advertised on the *Notice to Contractors* and sends it to the newspaper.


INTERNET**ADVERTISING:**

The Division of Contract Procurement posts a copy of each *Notice to Contractors* on its Web page.

**ADVERTISING FOR
CONSULTANT
ENGINEERING
SERVICES:**

Upon request by e-mail with advertisement attached in Word document form, the Division of Contract Procurement prepares a request with the advertisement attached and forwards it to the two statewide newspapers for publication. This announcement must appear in a Sunday edition of the newspaper at least seven days prior to the time set forth for contacting the Cabinet, unless otherwise specified.


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<h1>CONTRACT</h1>	<i>Chapter</i>
	ADVERTISING, PROPOSALS, & ESTIMATES
	<i>Subject</i>
<h1>PROCUREMENT</h1>	Payment to Newspapers

**POLICY ON
PAYMENT TO
NEWSPAPERS:**

The publisher shall submit to the Division of Contract Procurement a copy of each newspaper advertisement along with one copy of the company's invoice. The division shall prepare the agency miscellaneous quick pay and forward the quick pay with copies of the invoices and tear sheet to the Division of Accounts.

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<h1>CONTRACT</h1>  <h1>PROCUREMENT</h1>	<p><i>Chapter</i></p> <p>ADVERTISING, PROPOSALS, & ESTIMATES</p>
	<p><i>Subject</i></p> <p>Sales of Proposals</p>

**PROPOSAL
PREPARATION:**

After receiving the proposal from the appropriate division, the Division of Contract Procurement proofreads it and then forwards it to the Division of Property and Supply Services for reproduction. The number of copies requested for each proposal varies, depending upon the type, size, and location of the project. The Division of Property and Supply Services reproduces and returns the copies of the proposal to the Proposal Section of the Division of Contract Procurement with a list that documents the number of proposals reproduced for the project. The proposals are then numbered and distributed.

BID PROPOSALS:

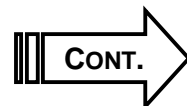
Bid proposals at a cost of \$10.00 each are available in the Division of Contract Procurement to prequalified contractors, who may order the bid proposals by mail, fax, or telephone. When it sells a bid proposal, the division time-stamps it and mails it with a sealed bid envelope to the purchaser. The division sells bid proposals until 3:00 p.m. prevailing time on the day before the bid opening.

**SPECIMEN
PROPOSALS:**

Specimen proposals at a cost of \$10.00 each are available in the Division of Contract Procurement to any individual or organization. A specimen proposal is identified by marking the word *specimen* on the front page of the proposal and is not acceptable for bidding. The division sells specimen proposals until 3:00 p.m. prevailing time on the day before the bid opening. Prior to the bid opening, the division distributes one copy of specimen proposals to the following Cabinet groups:

- Ø Division of Contract Procurement
- Ø Division of Materials
- Ø Estimating Section, State Highway Engineer's Office
- Ø Division requesting the service

After the bid opening, the Contract Section of the Division of Contract Procurement receives two specimen proposals.



**LISTING OF
PURCHASERS**

OF PROPOSALS: On Friday of the week before the opening of the bids, the Division of Contract Procurement makes available to the public a listing of all purchasers of bid proposals. The division updates this listing on the Wednesday before the division opens the bids. This information will be available on the Web site and in the reception area of the Division of Contract Procurement.


**RECONCILING
PROPOSALS SOLD**

WITH RECEIPTS: After opening of the bids, the Division of Contract Procurement:

- Ø Reconciles the total number of proposals sold with the total dollar amount collected or billed
- Ø Submits the list of proposals paid for by cash, along with the cash
- Ø Submits a list to the Division of Accounts for collection

The State Road Fund Account receives all money from the sales of proposals.

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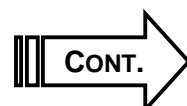
<div data-bbox="228 216 501 281">CONTRACT</div> <div data-bbox="440 291 664 432">  </div> <div data-bbox="396 443 779 508">PROCUREMENT</div>	<div data-bbox="816 212 906 237">Chapter</div> <div data-bbox="894 268 1308 333">ADVERTISING, PROPOSALS, & ESTIMATES</div> <hr/> <div data-bbox="816 380 902 405">Subject</div> <div data-bbox="966 428 1235 459">Project Bid Item List</div>
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**PREPARING
BID ITEM LIST:**

After officially advertising a project for bids to be received, the Division of Contract Procurement uses the specimen copies of proposals and roadway plans as a basis for preparing the project bid item list (**Exhibit 03**).

The division applies the following data to pay estimates:

- Ø Project number
- Ø District and county
- Ø Type of construction liquidated damages based on contract amount, unless specified
- Ø Road name and subsection descriptions
- Ø Item description and length of project (miles)
- Ø Unit and type code (subsection work type)
- Ø Total quantity and contract amount (total)
- Ø If a project covers more than one county, a breakdown of quantities showing total amount of work to be performed in each county
- Ø If a project has more than one project number, a breakdown of quantities showing total amount of work to be performed on each project number
- Ø If a project includes more than one account number, a breakdown of each account number, with each breakdown cross-referenced to the project




**PREPARING
BID ITEM LIST
(cont.):**

- Ø Breakdown as to the cost of each structure 20 feet and over in roadway length
- Ø Breakdown or grouping of specialty items (for example, lighting and landscaping)
- Ø The successful contractor's unit price bid on each item, taken from the computer tabulation when bids have been opened and the project has been officially awarded
- Ø Successful contractor's name and address, taken from the contractor's bid proposal, and the contractor's vendor number
- Ø Estimated unit prices extended and totaled to match total contract amount
- Ø Application of the account number and encumbrance number upon approval of a TC 14-32 form, *Encumbrance Form (Exhibit 09)*, by the Division of Accounts

**SUBMITTING
ENCUMBRANCE
FORM:**

When a project is awarded the TC 14-32 form is submitted to the Division of Accounts. When the confirmation of a contract notice to proceed has been issued, the effective date of the notice to begin work and the specified date of completion are applied.

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<h1>CONTRACT</h1>	Chapter
	AWARDS, CONTRACTS, & COMPLIANCE
	Subject
	Opening Bids
<h1>PROCUREMENT</h1>	

POLICY:

When bids are received, the Division of Contract Procurement time-stamps, checks, and sorts them by project number. The bids are publicly opened, the bid bond or guaranty (5 percent of total bid) is validated, and the bids are checked to determine if bidder has omitted (1) a unit price for any pay item or (2) an amount for the entire quantity of the same pay item, except when a choice of authorized pay items are permitted.

If the bidder has failed to include a guaranty in an amount at least equal to the amount indicated on the proposal form or to properly prepare the bid in accordance with (1) and (2) above, the bid shall be rejected and not read by the Department of Highways.

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<h1>CONTRACT</h1>  <h1>PROCUREMENT</h1>	Chapter AWARDS, CONTRACTS, & COMPLIANCE
	Subject Award & Execution of Contracts

OVERVIEW:

Immediately after the proposals are opened, the bid prices are validated against diskettes submitted with proposals. Thereafter, the Division of Contract Procurement makes a comparison of bids based on correct summation of quantities at the unit prices bid. When there is an error in an extension, the correct extended unit price shall govern. The Commissioner of the Department of Highways reserves the right to accept or reject any or all bids and to waive minor technicalities as may be deemed in the best interest of the Commonwealth.

IRREGULAR PROPOSALS:

The department will consider any individual proposal and may reject it for any of the following reasons:

- Ø The proposal is on a form other than that furnished by the Cabinet or the form is altered or any part thereof is detached
- Ø There are unauthorized additions, conditional or alternate bids, or irregularities of any kind that tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning
- Ø The bidder adds any provisions reserving the right to accept or reject an award or to enter into a contract pursuant to an award

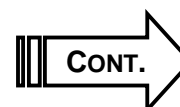
DISQUALIFICATION OF BIDDERS:

Any of the following reasons may be considered sufficient for disqualification of a bidder and rejection of the bidder's proposal or proposals:

- Ø More than one proposal for the same work from an individual, firm, or corporation
- Ø Evidence of collusion among bidders

Note: Participants in collusion will receive no recognition as bidders for future work until they have been reinstated as qualified bidders.

- Ø Any failure to comply with the provisions of Article 102.07 or Article 102.08 of the 2004 *Standard Specifications for Road and Bridge Construction*
- Ø Insufficient eligibility to accept an award



**AWARD OF
CONTRACT:**

Unless the Department of Highways rejects all bids, the contract will be recommended for award to the lowest responsible bidder whose proposal complies with the requirements of laws, regulations, and specifications relating to the project. Award will be made within 10 days after the date of receiving bids unless it is deemed best to hold the proposals of the two low bidders for a period not to exceed 30 days for final disposition of award. **(Exhibit 06)**

**CANCELLATION
OF AWARD:**

The Cabinet reserves the right to cancel the award of any contract at any time before the signing of the contract by all parties without any liability accruing against the Cabinet.

**RETURN OF
PROPOSAL
GUARANTIES:**

The proposal guaranties (certified checks or cashier's checks) of all except the two lowest bidders will be returned within five days after the proposals have been checked, tabulated, and compared. The proposal guaranty of the lowest bidder will be held. If deemed appropriate in the judgment of the Commissioner of the Department of Highways, the proposal guaranty of the second-lowest bidder may be held until the project is awarded and the contract and bond of the successful bidder have been executed and approved. Should no award be made within 30 days, all proposal guaranties (certified checks or cashier's checks) shall be returned. Bid bonds will be retained as a part of the bidder's file.

**EXECUTION OF
CONTRACT:**

The bidder to whom the contract is awarded will execute and file with the department:

- Ø Signed contract
- Ø Approved performance bond and payment bond
- Ø Satisfactory evidence of required liability insurance and workers' compensation insurance
- Ø Satisfactory evidence of compliance with Article 102.15 of the 2004 *Standard Specifications of Road and Bridge Construction*
- Ø Anticipated earning schedule, if applicable
- Ø Three copies of the TC 14-27 form, *Authority to Sign (Exhibit 07)*, and the TC 14-309 form, *Trainee Classification Form and Notice of Selection of Program (Exhibit 08)*, if applicable.

These documents shall be filed within 15 calendar days after the date of receiving the notice of award unless otherwise provided in the proposal or notified in writing by the department. The contract and the bonds will be executed on the form furnished by the department. Within 30 calendar days after receipt of the above-mentioned documents, the Commissioner of the Department of Highways will make final disposition of the contract.



EXECUTION OF

CONTRACT (cont.): Upon receipt of the executed contract documents from the contractor, the documents are checked for signatures, witnesses, bonding seal, insurance coverage, and power of attorney for bondsman. Powers of attorney are checked to determine if they have been properly executed and filed in the Franklin County Court Clerk's office. Two copies of the executed contract and a copy of the power of attorney are submitted to the Office of Legal Services for approval as to form and legality.

APPROVAL OF


CONTRACT: A contract is not binding until the Commissioner of the Department of Highways, or authorized representative, has executed it and the Division of Accounts has certified it as to the availability of sufficient funds.

FAILURE TO**EXECUTE****CONTRACT:**

Failure to comply with Article 103.06 of the 2004 *Standard Specifications* shall be just claim for the annulment of the award. It is understood by the bidder and the Commissioner of the Department of Highways that, in the event of the annulment of the award, the guaranty deposited with the proposal will be forfeited as agreed and liquidated damages sustained. As provided by statute, at this point the Commissioner may elect to do any of the following:

- Ø Make award to the next-lowest responsible bidder
- Ø Readvertise the work
- Ø Have work performed by the Cabinet

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<h1>CONTRACT</h1>  <h1>PROCUREMENT</h1>	Chapter AWARDS, CONTRACTS, & COMPLIANCE
	Subject Officially Awarding Contracts

PROCEDURE: When the Awards Committee recommends that a project be awarded, the Division of Contract Procurement prepares an Official Order (**Exhibit 06**) and forwards it to:


- Ø Division of Accounts for certification as to funds available
- Ø Commissioner, Department of Highways, for official action
- Ø Division of Accounts for an Official Order number

Distribution of the approved Official Order is as follows:

- | | |
|--|-------------------|
| Ø Division of Construction | 1 copy |
| Ø Division of Program Management | 1 copy |
| Ø Division of Highway Design | 2 copies |
| Ø Blueprint Section | 1 copy |
| Ø Division of Bridge Design | 1 copy |
| Ø Office of Public Affairs | 1 copy |
| Ø Deputy State Highway Engineer
for Project Development | 1 copy |
| Ø Division of Operations | 3 copies |
| Ø Office of Budget and Fiscal Management | 1 copy |
| Ø Division of Accounts | original document |
| Ø Legislative Research Commission | 1 copy |
| Ø Federal Highway Administration (federal) | 1 copy |
| Ø Kentucky Association of Highway Contractors | 1 copy |
| Ø Division of Contract Procurement | 5 copies |

For certain federal-aid projects, the Department of Highways must obtain the concurrence of the Federal Highway Administration prior to award by the Commissioner of the Department of Highways. The Awards and Contract Compliance Branch sends a letter, accompanied by a noncollusion affidavit (**Exhibit 10**), to the Federal Highway Administration requesting concurrence.

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<h1 style="text-align: center;">CONTRACT</h1>  <h1 style="text-align: center;">PROCUREMENT</h1>	<p><i>Chapter</i></p> <p style="text-align: center;">AWARDS, CONTRACTS, & COMPLIANCE</p>
	<p><i>Subject</i></p> <p style="text-align: center;">Procedure for Execution of Contract Documents</p>

PROCEDURE:

When a project has been officially awarded, two contracts and bonds are prepared with a letter of transmittal. The contracts and bonds go to the contractor for execution. Distribution of the transmittal letter prior to execution is as follows:

Ø Contractor	Original document
Ø Chief District Engineer	1 copy
Ø Division of Accounts	1 copy
Ø Division of Contract Procurement (contract folder)	1 copy

**PROCESSING
CONTRACT
DOCUMENT:**

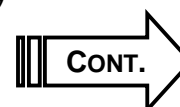
After the contractor and the Cabinet have properly executed the contract document, the processing of the document is as follows:

1. The Division of Contract Procurement prepares a contract document encumbering money for the project and hand-carries it to the Division of Accounts.
2. The Division of Accounts prepares a document for each account number on the contract document.
3. Upon receipt of the approved encumbrance from the Division of Accounts, the Division of Contract Procurement issues a notice to begin work (**Exhibit 11**).

**DISTRIBUTION OF
CONTRACT DOCUMENT
AFTER FINAL
EXECUTION:**

Copies are to be distributed as follows:

Ø Contractor	1 copy
Ø Division of Contract Procurement	Original document
Ø Division of Accounts	Original document
Ø Chief District Engineer	1 copy
Ø Bonding companies	1 copy
Ø Federal Highway Administration (if federal aid)	1 copy
Ø Division of Construction	1 copy




**DISTRIBUTION OF
NOTICE TO BEGIN
WORK:**

Distribution of document is as follows:

Ø Contractor	Original document
Ø Chief District Engineer	1 copy
Ø Bonding company	1 copy
Ø Federal Highway Administration (if federal aid)	1 copy
Ø Division of Construction	1 copy
Ø Division of Materials	1 copy
Ø Central Files	1 copy
Ø Division of Accounts	1 copy
Ø Division of Contract Procurement	1 copy
Ø Kentucky Association of Highway Contractors	1 copy

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<p>CONTRACT</p>  <p>PROCUREMENT</p>	<p><i>Chapter</i></p> <p>AWARDS, CONTRACTS, & COMPLIANCE</p> <hr/> <p><i>Subject</i></p> <p>Execution of Contract Documents</p>
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**DISTRIBUTION OF
CONTRACT WITH HIGHWAYS
(CH) CONTRACT**

ENCUMBRANCE: Distribution is as follows:


- | | |
|---------------------------|--------|
| Ø Chief District Engineer | 1 copy |
| Ø Division of Materials | 1 copy |
| Ø Division of Accounts | 1 copy |

**DISTRIBUTION
OF AUTHORITY
TO SIGN:**

Distribution is as follows:

- | | |
|------------------------------------|-------------------|
| Ø Division of Contract Procurement | Original document |
| Ø Chief District Engineer | 1 copy |
| Ø Division of Construction | 1 copy |

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<p>CONTRACT</p>  <p>PROCUREMENT</p>	<p><i>Chapter</i></p> <p>AWARDS, CONTRACTS, & COMPLIANCE</p>
	<p><i>Subject</i></p> <p>Rejection of Project</p>


PROCEDURE: When the Awards Committee recommends that a project be rejected, the Awards and Contract Compliance Branch prepares an Official Order (**Exhibit 12**) and submits it to the Commissioner of the Department of Highways for approval. The approved official order is sent to the Division of Accounts for an official order number. The Awards and Contract Compliance Branch notifies the contractor by letter, with a copy of the official order attached, that the project has been rejected

**DISTRIBUTION OF
OFFICIAL ORDER
FOR REJECTION
OF PROJECT:**

Distribution is as follows:

Ø Division of Construction	1 copy
Ø Division of Program Management	1 copy
Ø Division of Highway Design	2 copies
Ø Blueprint Section	1 copy
Ø Division of Bridge Design	1 copy
Ø Office of Public Affairs	1 copy
Ø Deputy State Highway Engineer for Project Development	1 copy
Ø Division of Operations	3 copies
Ø Office of Budget and Fiscal Management	1 copy
Ø Division of Accounts	Original document
Ø Legislative Research Commission	1 copy
Ø Federal Highway Administration (federal)	1 copy
Ø Kentucky Association of Highway Contractors	1 copy
Ø Division of Contract Procurement	5 copies

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<h1>CONTRACT</h1>	Chapter
	AWARDS, CONTRACTS, & COMPLIANCE
	Subject
	Compliance with Equal Employment Opportunity
<h1>PROCUREMENT</h1>	

**COMPLIANCE
PROCEDURES:**

The Kentucky Transportation Cabinet follows the compliance procedures outlined in 23 CFR, Part 230, Subpart C, Appendix A. The Cabinet conducts equal employment opportunity (EEO) contract compliance reviews in accordance with 23 CFR, Part 230, Subpart D, Appendix A. This includes close cooperation with the Federal Highway Administration (FHWA).

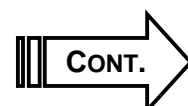
**EEO
ENFORCEMENT:**

Compliance personnel in the Division of Contract Procurement enforce equal employment opportunity through the Federal Aid Highway Act of 1968, (23 U.S.C. 140 [a]) and 23 CFR 230. Included in the bid proposals are directives giving sufficient data to assist the contractors in meeting their equal employment opportunity obligations and keeping their companies in compliance with:

- Ø Goals and timetables in each county for the employment of women and minorities in construction
- Ø Efforts utilized to reach and maintain goals
- Ø Assurance that employees are free from harassment or discrimination
- Ø Standard Federal EEO Construction Contract Specifications (FHWA 1273)

**EXPLANATION OF
EEO PROVISIONS:**

At every preconstruction conference, the district EEO aide explains in detail the EEO provisions in each federal-aid contract. This is made a matter of official record, as it is in the minutes of the conference. In the absence of the EEO aide, an affirmative action compliance officer will attend the preconstruction conference.



**IMPLEMENTATION
OF HIGHWAY
CONSTRUCTION
EEO PROGRAM:**

District EEO aides are responsible for assisting the Division of Contract Procurement in implementing the highway construction EEO program.

**DESIGNATION
OF EEO AIDE:**

Each Chief District Engineer designates the EEO aide responsible for EEO and wage contract requirements. The EEO aide is responsible to the Division of Contract Procurement for the implementation of these contract requirements. Compliance staff of the Division of Contract Procurement relates all compliance regulations, changes, deletions, and procedures to each EEO aide. It is the responsibility of each EEO aide to supply all pertinent correspondence, information, directives, etc., relative to EEO or wage-and-hour compliance to appropriate district personnel. It is also the responsibility of the EEO aide or resident engineer to report to the Division of Contract Procurement any noncompliance on any project within his or her district.

EEO POSTERS:

The compliance staff of the Division of Contract Procurement furnishes the District EEO aides with the EEO posters required to be posted in conspicuous locations at the project site before construction commences. The aides provide them to the prime contractor and/or subcontractor.

**EEO
DOCUMENTATION**


RESPONSIBILITIES: The District EEO aide assures that the contractor, prior to the commencement of work, is knowledgeable of the frequency and adequacy of reports required to meet the documentation responsibilities in the EEO documentation guidelines.

**COMPLAINTS OF
DISCRIMINATION:**

When made aware of any complaints of discrimination by any employee of a work force (employed by a contractor and/or subcontractor) who believes that he or she has been discriminated against because of race, creed, color, sex, disability, age, or national origin, the District EEO aide immediately notifies compliance personnel in the Division of Contract Procurement.

The Kentucky Transportation Cabinet investigates complaints of discrimination and may refer such complaints to other state agencies.

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<p>CONTRACT</p>  <p>PROCUREMENT</p>	<p><i>Chapter</i></p> <p>AWARDS, CONTRACTS, & COMPLIANCE</p>
	<p><i>Subject</i></p> <p>External Training Program</p>

**PLACEMENT OF
TRAINEES:**

23 CFR, Part 230.111, calls for the placement of trainees on federal-aid construction contracts.


**TRAINEE
DISTRIBUTION:**

Before commencing work, the contractor forwards completed copies of the TC 14-309 form, *Trainee Classification Form & Notice of Selection of Program* (**Exhibit 08**), to the Division of Contract Procurement. Compliance staff then examines the classifications listed and checks them against the classifications listed in the contract. After consideration of the type of federal funding involved and the number of minorities and females available in the labor market areas, proper distribution of trainees in appropriate classifications can be assured.

**TRAINEE
PROGRESS:**

Compliance staff of the Division of Contract Procurement continually monitors the progress of all trainees by means of project site interviews and reports from contractors and engineers in the field. The TC 14-311 form, *Weekly Training Report* (**Exhibit 13**), along with the TC 14-310 form, *Notice of Selection of Trainee & Trainee Work History* (**Exhibit 14**), are utilized by compliance personnel in monitoring compliance with trainee special provisions.

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<h1>CONTRACT</h1>	<i>Chapter</i>
	AWARDS, CONTRACTS, & COMPLIANCE
	<i>Subject</i>
	Minority Business Enterprise
<h1>PROCUREMENT</h1>	


REQUIREMENTS: The Cabinet includes in its bid proposals for all federal-aid projects the following requirements:

- Ø A certification requiring the bidder's signature stating that if the bidder desires to subcontract any portion of the work, he or she:
 - ◆ Will take affirmative action to seek out and consider minority business enterprises as potential subcontractors
 - ◆ Has made contact with potential minority business enterprise subcontractors; has affirmatively solicited their interest, capacity, and prices; and has documented the result of such contacts

Note: A bidder's failure to submit this certification shall render its bid nonresponsive.

- Ø A provision requiring the contractor to designate a liaison officer who will administer his or her minority business enterprise program

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<div style="text-align: center;"> <h1>CONTRACT</h1>  <h1>PROCUREMENT</h1> </div>	Chapter AWARDS, CONTRACTS, & COMPLIANCE
	Subject Compliance with Wage & Hour

RESPONSIBILITY: Compliance personnel in the Division of Contract Procurement are responsible for the administration of wage-and-hour laws and regulations as they apply to highway construction in Kentucky. The division obtains wage rates from the U.S. Department of Labor and the Kentucky Department of Labor and prepares them for insertion into proposals.

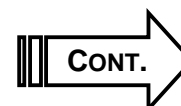
Compliance personnel ensure that proper wage rates and required provisions are incorporated into contracts. This requires interpreting instructional, policy, and procedure memoranda from the U.S. Department of Labor, U.S. Department of Transportation, and Kentucky Department of Labor. Compliance personnel furnish requirements of labor standards to Cabinet personnel and to firms doing business with the Cabinet.

LABOR STANDARDS PROVISIONS

COMPLIANCE: The Division of Contract Procurement uses the U.S. Department of Transportation's *Labor Compliance Manual* and the U.S. Department of Labor's *Operations Handbook* as guides to monitor labor practices of federal-aid highway construction contractors. Labor standards provisions of contracts are required by various acts (Copeland "Anti-Kickback" Act, Davis-Bacon Act and related acts, Work Hours and Safety Act of 1962, False Information Act, False Claims Act, etc.). The division uses the *Kentucky Labor Laws Handbook* as a guide to monitor the Kentucky Public Works Act. The District EEO aide or affirmative action compliance officer (AACO) explains these acts, along with other labor regulations, to contractors at preconstruction conferences.

FEDERAL- & STATE- REQUIRED POSTERS

COMPLIANCE: At a preconstruction conference, compliance personnel of the Division of Contract Procurement furnish the District EEO aide applicable posters for the contractor to display at the project site.

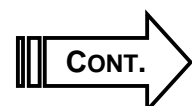


**FEDERAL- & STATE-
REQUIRED POSTERS
COMPLIANCE (cont.):****Ø Required federal posters:**

- ◆ Minimum Wage Rate Schedule
- ◆ Form FHWA 1495 (wage rate information applicable to federal-aid system projects)
- ◆ Form FHWA 1022 (notice relating to false statements and false claims)
- ◆ Safety and Health Protection on the Job (compliance safety and health requirements)
- ◆ Kentucky Law Requires Equal Opportunity
- ◆ *Contractor Notice*, TC 14-314 form **(Exhibit 15)** (notice to contractor for equal employment opportunity)
- ◆ *Nondiscrimination in Employment*, TC 14-313 form **(Exhibit 16)**
- ◆ Equal Employment Opportunity Is the Law

Ø Required State Posters:

- ◆ Minimum Wage Rate Schedule
- ◆ Safety and Health Protection on the Job (compliance safety and health requirements)
- ◆ Kentucky Law Requires Equal Opportunity
- ◆ *Contractor Notice*, TC 14-314 form **(Exhibit 15)** (notice to contractor for equal employment opportunity)
- ◆ *Nondiscrimination in Employment*, TC 14-313 form **(Exhibit 16)**



**WAGE-&-HOUR
REQUIREMENTS**

Compliance personnel of the Division of Contract Procurement:

- Ø Keep a current file on rules and regulations as they apply to wage-and-hour requirements
- Ø Meet with FHWA representatives to effect concurrence with interpretation
- Ø Work with the U.S. Department of Labor, FHWA, and Kentucky Department of Labor in related matters
- Ø Prepare Semiannual Labor Compliance Enforcement Reports (**Exhibit 17**) for submission to the FHWA (these reports give the number of violations and total wage interviews)

**DETECTION OF
VIOLATIONS:**

When violations are detected and corrective actions are not taken, compliance personnel of the Division of Contract Procurement are to recommend closing down a project or withholding pay estimates. Compliance personnel should determine the seriousness of violations as quickly as possible and effectuate a speedy settlement in order to prevent construction delays.

**WAGE-&-HOUR
REVIEWS:**

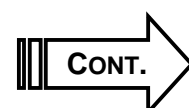
Compliance personnel of the Division of Contract Procurement conduct in-depth wage-and-hour reviews on federal-aid projects and state projects subject to Kentucky prevailing-wage requirements. During these reviews, compliance personnel interview employees to determine whether the project is in compliance. A compliance representative may accompany FHWA representatives in conducting annual in-depth wage-and-hour inspections.

**WAGE RATE
CHANGES:**

Compliance personnel of the Division of Contract Procurement receive and review all Federal Registers and review the Davis-Bacon Wage Determinations Web site for wage-rate changes, modifications in decisions, or changes in wage regulations.

**ESTABLISHMENT OF
LABOR LOCALITIES
& RATES:**

The Kentucky Secretary of Transportation establishes labor localities for the 120 counties in Kentucky. The U.S. Secretary of Labor or the Secretary of the Kentucky Department of Labor establishes labor wage rates for these localities.



INVESTIGATION

OF COMPLAINTS: Compliance personnel of the Division of Contract Procurement investigate wage complaints and conduct hearings on violations of labor requirements.

**AUDIT OF
PAYROLLS:**

Compliance personnel of the Division of Contract Procurement:

- Ø Audit every first and eighth payrolls for wage discrepancies, clerical errors, and other discrepancies
- Ø Receive and review the Engineer's Wage-and-Hour Reports, which provide information relating to the wage status of the project
- Ø Keep a record of investigations conducted and wages collected on federal-aid and state-funded projects


**LABOR CABINET
INVESTIGATIONS:**

Highway construction project payrolls may be used in labor investigations conducted by the Kentucky Department of Labor or the U.S. Department of Labor. Some of these cases may involve using the payrolls in court.

**SPECIFIC LABOR
REQUIREMENTS:**

Compliance staff of the Division of Contract Procurement monitors specific labor requirements contained in APD projects (for example, 80 percent of the work force must reside in the Appalachian area).

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<p>CONTRACT</p>  <p>PROCUREMENT</p>	<p><i>Chapter</i></p> <p>AWARDS, CONTRACTS, & COMPLIANCE</p> <hr/> <p><i>Subject</i></p> <p>Contract Sanctions for Noncompliance</p>
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OVERVIEW: The Transportation Cabinet has several methods of imposing sanctions upon a contractor. These include the following, which are imposed by law, regulations, or specifications:

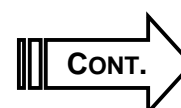
**WITHHOLDING OR
DELAYING PROGRESS**

PAYMENTS: To impose this sanction:

1. The Division of Contract Procurement may recommend to the Chief District Engineer (CDE) withholding pay estimates when contractors fail to comply with equal employment opportunity (EEO) or wage-and-hour contract requirements. When it is not feasible to notify the CDE, the division may notify the Division of Accounts directly.
2. The letter of notification of contractual requirements signed by the contractor at the preconstruction conference will be the only notice, insofar as EEO or labor compliance is concerned, before action of withholding pay estimates may be taken. The EEO aide holds record of the letter on file by before any action of withholding pay estimates is made.
3. Compliance personnel of the Division of Contract Procurement shall initiate withholding action on payment of a contractor's estimate by submitting a request and the reason in writing to the CDE or Division of Accounts, as applicable. Such a request to withhold or release funds shall preferably designate a specific date rather than a specific pay estimate to initiate or cancel action.

**SUSPENSION
OF WORK:**

The Division of Contract Procurement may recommend suspension of work on projects where efforts to obtain contract compliance by withholding progress payments have failed.




TERMINATION**OF CONTRACT:**

The State Highway Engineer may terminate contracts where contract requirements have not been met and compliance has not been obtained by withholding progress payments or suspending work. Such action shall not be taken until the contractor has been afforded an opportunity to show cause why the contract should not be terminated.

SUSPENSION**OF BIDDING:**

The CDE or the Division of Contract Procurement may recommend suspension of bidding for a contractor failing to take corrective action.

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<h1>CONTRACT</h1>	<i>Chapter</i>
	DISTRIBUTION OF FORMS & PREPARATION OF CH CONTRACTS
	<i>Subject</i>
<h1>PROCUREMENT</h1>	Distribution of Reports

**DISTRIBUTION
OF REPORTS:**

Reports are to be distributed as follows:

Division of Accounts	2 copies
Division of Materials	1 copy
District Office	1 copy

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CONTRACT  PROCUREMENT	Chapter EXHIBITS
	Subject Table of Exhibits

EXHIBIT NUMBER	FORM TITLE	FORM NUMBER
01	Application for Certificate of Eligibility	TC 14-1
02	Certificate of Eligibility	TC 14-2
03	Project Bid Item List	(none)
04	Notice to Contractors	(none)
05	Official Order 101722, Policy for the Holder of a Certificate of Eligibility	(none)
06	Sample Official Order for Award of Projects	(none)
07	Authority to Sign	TC 14-27
08	Trainee Classification Form and Notice of Selection of Program	TC 14-309
09	Encumbrance Form	(none)
10	Noncollusion Certification	(none)
11	Notice to Begin Work	(none)
12	Official Order	(none)
13	Weekly Training Report	TC 14-311
14	Notice of Selection of Trainee & Trainee Work History	TC 14-310
15	Contractor Notice	TC 14-314
16	Nondiscrimination in Employment	TC 14-313
17	Semiannual Labor Compliance Enforcement Report	(none)

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